

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION**

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In re:

**Sonita McRae,**

Bankruptcy Case No.: 09-80288

Soc. Sec. No. xxx-xx-3167

Mailing Address: 18880 Sallie McNair Road, ,  
Laurinburg, NC 28352-

Debtor.

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**Sonita McRae,**

Plaintiff, A.P. No.: \_\_\_\_\_

**Blue World Pools, Inc.,**

Defendant.

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**COMPLAINT TO VALUE COLLATERAL**

The Plaintiff, above-named, respectfully alleges as follows:

1. That this matter is a core proceeding pursuant to 28 U.S.C. Section 157, and that the court has jurisdiction pursuant to 28 U.S.A. Sections 151, 157 and 1334.
2. This Complaint was filed, pursuant to 11 U.S.C. 506, and in accordance with Bankruptcy Rule 7001, to value their residence for the purpose of determining the secured status of the mortgage claim held by Blue World Pools, Inc..
3. The Plaintiff is filed this bankruptcy case on February 20, 2009 seeking protection under Chapter 13 of Title 11 of the United States Code.
4. The Defendant Blue World Pools, Inc. is a corporation and/or a partnership with an office and principal place of business located at 120 Interstate N. Parkway E, Suite 426, Atlanta, GA 30339- and/or 2533 N. Carson Street, Suite 4925, Carson City, NV 89706- .This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. Section 157 and 1334 and 11 U.S.C. Section 506.
5. The Plaintiff owns real property located at 18880. The legal description of the property is as follows: Being all of Tract E (4.602 AC), in subdivision known as North Ridge, according to a plat of the same being duly recorded i Book of Plats 9, page348, Scotland County Registry, North Carolina. The tax map or parcel ID No. is: 03-0422-01164
6. Flagstar Bank FSB holds a first Deed of Trust on such property with an payoff balance, as of the date this case was filed in the amount of approximately \$175,286.38. This Deed of Trust was recorded on 2/29/08 in Book 1170 at Page 17, Scotland County Registry of Deeds.
7. Blue World Pools, Inc. holds a second Deed of Trust on such property with a payoff balance,

as of the date this case was filed in the amount of approximately \$17,326.95. This Deed of Trust was recorded on 9/8/08 in Book 1199 at Page 147, Scotland County Registry of Deeds.

8. The fair market value of the said property is not greater than \$156,980.00.
9. Pursuant to 11 U.S.C. 506 of the Bankruptcy Code and In re: Kidd, 161 B.R. 769 (Bankr. E.D.N.C. 1993), the loan with Blue World Pools, Inc., secured by a second Deed of Trust against the Plaintiff's said property, is an unsecured claim. In turn, pursuant to 11 U.S.C. 506(d), the lien securing said loan is void.

**WHEREFORE**, the Plaintiff prays the Court find that said claim held by Blue World Pools, Inc., which is secured by a second Deed of Trust upon said property, to be wholly unsecured, and that said claim should therefore be classified an unsecured claim for the purpose of this Chapter 13 case. The Plaintiff further prays that the Court order Blue World Pools, Inc. to cancel the said Deed of Trust forthwith upon the completion of the Plaintiff's Chapter 13 plan and the granting of the Plaintiff's discharge, and that the Court grant such other and further relief as to the Court seems just and proper.

Dated: October 22, 2009

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward Boltz  
Edward Boltz  
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